

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JEFFREY W. MCCRAY, a.k.a.	§
JEFFREY W. MCCREY,	§ No. 599, 2010
	§
Defendant Below-	§
Appellant,	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
	§ in and for New Castle County
STATE OF DELAWARE,	§ C.A. No. 10M-09-009
	§
Plaintiff Below-	§
Appellee.	§

Submitted: October 22, 2010

Decided: December 7, 2010

Before **STEELE**, Chief Justice, **HOLLAND**, and **RIDGELY**, Justices

ORDER

This 7th day of December 2010, upon consideration of the appellant's opening brief, the State's motion to affirm, and the record below, it appears to the Court that:

(1) The appellant, Jeffrey McCray, filed this appeal from the Superior Court's order denying his petition for a writ of habeas corpus. The State of Delaware has filed a motion to affirm the judgment below on the ground that it is manifest on the face of McCray's opening brief that his appeal is without merit. We agree and affirm.

(2) The record reflects that McCray was convicted in January 2007 of three counts of aggravated menacing, two counts of terroristic threatening,

possession of a deadly weapon during the commission of a felony, shoplifting, and third degree conspiracy. The State filed a motion to have McCray sentenced as a habitual offender, which the Superior Court granted. The Superior Court sentenced McCray to twenty-two years in prison followed by decreasing levels of supervision. This Court affirmed on direct appeal.¹ Thereafter, McCray filed unsuccessful motions requesting postconviction relief and/or modification of his sentence.

(3) In his petition for a writ of habeas corpus, McCray argued that the Superior Court erroneously sentenced him as a habitual offender without holding an appropriate hearing. The Superior Court denied relief on the ground that McCray is legally detained and, thus, the relief sought was not available through a writ of habeas corpus. McCray has appealed that ruling, again arguing that he is entitled to have his sentence vacated because his due process rights were violated when the Superior Court sentenced him as a habitual offender without an appropriate hearing.

(4) In Delaware, the writ of habeas corpus provides relief on a very limited basis.² Pursuant to Section 6902 of Title 10 of the Delaware Code, habeas corpus relief is not available to a petitioner who is “committed or detained on a charge of treason or felony, the species whereof is plainly and fully set forth in the

¹ *McCrey v. State*, 2008 WL 187947 (Del. Jan. 3, 2008)

² *Hall v. Carr*, 692 A.2d 88, 891 (Del. 1997).

commitment.”³ McCray was convicted and sentenced in 2007. His commitment is valid on its face, and he continues to be held pursuant to that valid commitment. McCray’s allegations of procedural errors at his sentencing cannot be reviewed on a writ of habeas corpus.⁴ Accordingly, we find no error in the Superior Court’s denial of McCray’s writ without holding a hearing.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Myron T. Steele
Chief Justice

³ DEL. CODE. ANN. tit. 10, § 6902 (1999).

⁴*Curran v. Wooley*, 104 A.2d 771, 773-74 (Del. 1954).